

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

|                              |   |                    |
|------------------------------|---|--------------------|
| DAVID L. ALLEN,              | ) |                    |
|                              | ) |                    |
| Plaintiff,                   | ) | 8:11CV276          |
|                              | ) |                    |
| v.                           | ) |                    |
|                              | ) |                    |
|                              | ) | ORDER OF DISMISSAL |
| FIRST MORTGAGE COMPANY, LLC, | ) |                    |
|                              | ) |                    |
| Defendant.                   | ) |                    |
| _____                        | ) |                    |

This matter is before the court on the findings and recommendation, Filing No. [11](#), of the magistrate judge recommending that this court dismiss the case without prejudice. The magistrate judge issued an order, Filing No. [10](#), on September 19, 2011, ordering the plaintiff to report to court on or before September 26, 2011, or show cause why sanctions should not be imposed on the plaintiff for failing to meet and confer and for failing to file a planning report. Defendant's counsel indicated they tried to contact the plaintiff's counsel on multiple occasions and have received no response. Filing No. [10](#). The court received no response. Consequently, the magistrate judge issued his findings and recommendation that this court dismiss the case for failure to comply with court orders as set forth in [NECivR 41.2](#). Although dismissal is an extreme sanction, the court agrees with the magistrate judge that dismissal is appropriate in this case. See [Hunt v. City of Minneapolis, 203 F.3d 524, 527 \(8th Cir. 2000\)](#); see also Fed. R. Civ. P. 16(f)(2) and Fed. R. Civ. P. 41(b). Accordingly, the court will dismiss the complaint without prejudice.

THEREFORE, IT IS ORDERED that plaintiff's complaint is dismissed without prejudice. Any costs are assessed against the plaintiff. The findings and recommendation of the magistrate judge, Filing No. [11](#), is adopted in its entirety.

DATED this 10<sup>th</sup> day of January, 2012.

BY THE COURT:

s/ Joseph F. Bataillon  
United States District Court Judge

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